

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 20th day of March, two thousand thirteen.

PRESENT: JOHN M. WALKER, JR.,
RICHARD C. WESLEY,
CHRISTOPHER F. DRONEY,

Circuit Judges.

BRADLEY J. STINN,

Petitioner-Appellant,

-v.-

12-1930-pr

UNITED STATES OF AMERICA,

Respondent-Appellee.

FOR APPELLANT: DAVID W. SHAPIRO, Boies, Schiller &
Flexner LLP, Oakland, CA.

FOR APPELLEE: SAMUEL P. NITZE, Assistant United States
Attorney (Susan Corkery, James G.
McGovern, Assistant United States
Attorneys, *on the brief*), for Loretta E.
Lynch, United States Attorney for the
Eastern District of New York, Brooklyn,
NY.

1 Appeal from the United States District Court for the
2 Eastern District of New York (Gershon, J.).
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4 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**
5 **AND DECREED** that the judgment of the district court be
6 **AFFIRMED.**

7 On August 14, 2012 we granted Petitioner-Appellant
8 Bradley J. Stinn a certificate of appealability to consider
9 whether *Skilling v. United States*, 130 S. Ct. 2896 (2010),
10 affected his conviction. We assume the parties' familiarity
11 with the underlying facts, the procedural history, and the
12 issues presented for review.

13 Absent a showing of actual innocence, Stinn has
14 procedurally defaulted on his *habeas* petition. See *Bousley*
15 *v. United States*, 523 U.S. 614, 621-22 (1998). Stinn argues
16 that he is actually innocent because he was convicted under
17 a theory of honest-services fraud that *Skilling* made
18 constitutionally infirm. We disagree. Following an
19 exhaustive review of the record including Stinn's
20 indictment, the government's case-in-chief, and the district
21 court's charge to the jury, we conclude that there is no
22 reasonable possibility that Stinn was convicted under a
23 theory of depriving his company of his honest services.
24 Accordingly, we deny Stinn's petition for a writ of *habeas*
25 *corpus*.

1 We have considered all of Stinn's arguments on appeal
2 and find them to be without merit. For the foregoing
3 reasons, the judgment of the district court is hereby

4 **AFFIRMED.**

5 FOR THE COURT:
6 Catherine O'Hagan Wolfe, Clerk
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